

Federal Parks & Recreation

Bulletin #12: December 19, 2016

Dear Subscriber:

The attached bulletin from Federal Parks & Recreation newsletter reports on the following:

- * **DoI choice Zinke backs LWCF and fed lands retention**
- * **Congress approves Centennial bill at very last minute**
- * **Appropriators approve interim bill to give Trump a shot**

NOTE: This bulletin is a supplement to your regular edition of Federal Parks & Recreation. It is NOT your regular issue. The next issue will be published December 22. The Editors

LWCF supporter Zinke selected by Trump to head Interior

Barely a week after the Land and Water Conservation Fund (LWCF) was dealt a major setback by Congress, it received a major boost when President-elect Trump chose Rep. Ryan Zinke (R-Mont.) as his secretary of Interior.

The setback came when Congress failed to make permanent LWCF. That provision was included in a Senate version of an omnibus energy bill (S 2012) that was in a House-Senate conference committee as the Congress concluded.

Said Will Rogers, president of the Trust for Public Land on behalf of the Land and Water Conservation Fund Coalition, "We are extremely disappointed that this Congress will adjourn without adopting the bipartisan Senate-passed proposal to make the Land and Water Conservation Fund permanent. LWCF investments are essential to recreation access, economic vitality, and community character all across America."

However, LWCF is not in danger of expiring any day soon. Congress extended the fund for three years in a fiscal 2016 appropriations law (PL 113-114 of Dec. 18, 2015) through fiscal 2018.

Federal Parks & Recreation is published by Resources Publishing Co.,

P.O. Box 41320 • Arlington, VA 22204

Phone: (703) 553-0552 • Fax: (703) 553-0558 • E-Mail: james@resourcespublishing.com • www.plnfpr.com

The boost came on December 15 when Trump chose Zinke to head Interior. The Congressman has consistently supported full funding of \$900 million per year for LWCF as well as permanent authority for the program.

In addition Zinke has been outspoken in opposition to the transfer of federal lands to the states. Most famously in January 2015 he told the Montana State legislature, "I will not tolerate selling our public lands."

More recently on June 15 in a House Natural Resources Committee mark-up he voted against a bill (HR 3650) that would have authorized the transfer of up to 2 million acres per state of national forest to a state.

Said Zinke of the bill introduced by senior Republican Don Young (R-Alaska), "I'm starting to wonder how many times I have to tell these guys in leadership I'm not going to allow Montana's public lands to be sold or given away."

Sportsmen and conservation groups praised Zinke, although environmentalists criticized the choice because of Zinke's support for commodity development on the public lands.

In support of Zinke Outdoor Industry Association Executive Director Amy Roberts said, "He shares the industry's values specific to the importance of access to and funding for America's public lands and waters and the important role they play as the foundation and infrastructure of the \$646 billion outdoor recreation economy. We look forward to a collaborative relationship and constructive dialogue with him, but we will also be ready to defend the protection of our shared lands and waters – our American heritage – should they be threatened."

Environmentalists criticized the choice. "While he has steered clear of efforts to sell off public lands and supported the Land and Water Conservation Fund, far more often Rep. Zinke has advanced policies that favor special interests," said Jamie Williams, president of The Wilderness Society. "His overall record and the backdrop of cabinet nominations with close ties to the fossil fuel industry cause us grave concern."

As of a week ago Rep. Cathy McMorris Rodgers (R-Wash.) had been considered the frontrunner for the Interior position but President-elect Donald Trump's son Donald Jr. reportedly preferred Zinke. President-elect Trump and his son have consistently advocated retention of the public lands, despite a Republican Party Platform that proposes divestiture.

Senate Energy Committee Chairman Lisa Murkowski (R-Alaska) said she would hold hearings on Zinke's nomination "in early January." Murkowski said that in addition to Alaska issues, "I am also eager to learn more about Rep. Zinke's views on the differing roles of state and federal regulators on public lands, how he would restore balance to the multiple use of federal lands, and how he would approach federal lands transactions."

Like the human-powered recreation industry, the powered recreation industry endorsed Zinke. Said the Outdoor Recreation Industry Roundtable, "As a lifelong outdoor enthusiast, hunter and angler, Rep. Zinke understands the importance of access to and funding for America's public lands and waters, and the outdoor industry's critical economic impact."

The roundtable includes such groups as the Motorcycle Industry Council and the National Marine Manufacturers Association.

Zinke's selection creates a political problem for Senate Republican leaders. They had reportedly counted on Zinke to successfully challenge Sen. Jon Tester (D-Mont.) when he comes up for reelection in November 2018.

The National Parks Conservation Association (NPCA) concentrated its fire on the selection of former Texas Gov. Rick Perry (R) as secretary of Energy, a department he would eliminate.

Said NPCA President Theresa Pierno, "As governor, Mr. Perry sought to inhibit efforts to clean up outdated highly polluting coal plants that cause dirty air at Bing Bend and other national Parks."

At least one candidate for the boss of a line agency has come forward – Utah House Rules Chairman Michael E. Noel (R) as Bureau of Land Management director. Noel is a champion of the campaign in Utah to have 31 million acres of federal land transferred to the state.

No announcement has been made but it is rumored that the staff director of the House subcommittee on Public Lands, Erica Rhoad, may be nominated as under secretary of Agriculture for Natural Resources. In that position Rhoad would oversee policy for the Forest Service.

Meanwhile, the Trump administration and its Republican allies continue to gear up to reverse regulations and executive orders from the Obama administration. House and Senate Republican leaders are reportedly preparing to use a Congressional Review Act to revoke Obama regulations posted during the last half of this year.

A prime candidate for reversal is an anticipated National Park Service Director's Order #100 that would give protection of the park system priority over uses such as motorized vehicles. Also on the chopping block might be new oil and gas regulations issued by the Park Service and Fish and Wildlife Service (FWS).

FWS posted a final oil and gas rule November 14 that went into effect December 14. NPS announced completion of a counterpart rule November 3 that went into effect December 5.

But revocation of those regulations is child's play compared to a recommendation House Natural Resources Committee Chairman Rob Bishop (R-Utah) forwarded to the

Trump transition team December 5. Bishop said that President Trump should roll back controversial national monument designations.

His immediate target is a widely anticipated designation by President Obama of a Bears Ears National Monument in southern Utah. But Bishop also told the Utah press that Trump could by executive order reverse the 1996 designation of a 1.7 million-acre Grand Staircase-Escalante National Monument in Utah by then President Clinton.

Some scholars believe a President has no such reversal authority under the Antiquities Act of 1906. The Congressional Research Service in a report it prepared last month on the Antiquities Act said that reversals may not be legal. The research service said in its report:

“No President has ever abolished or revoked a national monument proclamation, so the existence or scope of any such authority has not been tested in courts. However, some legal analyses since at least the 1930s have concluded that the Antiquities Act, by its terms, does not authorize the President to repeal proclamations, and that the President also lacks implied authority to do so.”

Congress lays the groundwork for Centennial programs

Virtually out of nowhere December 9 Congress gave final approval to a watershed National Park Centennial program in the very last seconds of the 114th Congress.

The measure (HR 4680) includes a Centennial Challenge Fund, a National Park Foundation Endowment and expansion of National Park Foundation authorities, but with minimal funding.

Those three initiatives are relatively noncontroversial. More controversial, the bill would increase senior citizen America The Beautiful Pass rates from \$10 now to either \$20 annually or \$80 permanently.

President Obama is expected to sign HR 4680, in that his administration requested most Centennial provisions in the bill, albeit with significantly more money per program.

The Western Slope No-Fee Coalition is not pleased with the senior citizen fee increase. It told its members December 14 in a bulletin, “The \$20-\$35 million in anticipated additional revenue (depending on whose estimate you choose) will make little dent in the Park Service’s claimed maintenance backlog of \$12 BILLION. All of this is being done in the guise of celebrating the centennial of the National Park Service, although why making the Parks more expensive to visit constitutes a ‘celebration’ remains a mystery.”

Other parks advocates were more sanguine. Said Dan Puskar, executive director of the Public Lands Alliance, which represents nonprofits that do business with NPS, “This bill creates new, long lasting opportunities for grassroots, charitable organizations

to collaborate with the National Park Service on educational programs and increase resources for volunteerism.”

Puskar singled out the Challenge Fund for praise. “Most importantly, the act establishes a Centennial Challenge Fund, building on almost a decade of successfully leveraging private dollars with federal funds to improve visitor infrastructure, engage youth and veterans, rehabilitate historical assets and offer exceptional learning opportunities,” he said.

The House approved HR 4680 December 6 as a stand-alone Centennial bill in anticipation it could be added to a comprehensive energy bill (S 2012) that was at the time in a House-Senate conference committee. However, the energy bill failed.

The stand-alone bill did not fail, perhaps in part because of support from a broad alliance of conservationists called the National Parks Second Century Action Coalition.

It wrote all House members just before the House approved HR 4680 December 6, “With the National Park Service Centennial this year, now is the time to ensure our parks are ready for another 100 years of protecting our most treasured resources and nation’s history for the American people and international visitors. ”

Signing the letter were such groups as the Public Lands Alliance, the National Parks Conservation Association, the Outdoor Industry Association and the Coalition to Protect America’s National Parks.

Sen. John Portman (R-Ohio) reportedly picked up the flag and brought HR 4680 to the Senate floor December 9 as the very last piece of legislative business for the 114th Congress. Only one obstreperous senator could have blocked the bill – as usually happens – but by unanimous consent the Senate approved HR 4680.

Parks advocates have already begun discussions with Portman and other leading Senate supporters on a bulked-up, follow-on bill for next year. Those other supporters include Senate Energy Committee Chairman Lisa Murkowski (R-Alaska), ranking committee Democrat Maria Cantwell (D-Wash.), and Sen. Ron Wyden (D-Ore.)

Said Derrick Crandall, counselor to the National Park Hospitality Association, “Yes, we’re in active talks with the senators.” As for the House, he said the advocates were waiting to see how House Natural Resources Committee leadership and staffing sort out for next year.

Of course essential to any such campaign will be the support of the incoming Trump administration, particularly from Secretary of Interior nominee Rep. Ryan Zinke (R-Mont.) Given President-elect Trump’s promise of decreased taxes and increased spending, finding a spare \$1 billion or so per year for the Centennial won’t be easy.

Here are the key provisions of HR 4680:

National Park Centennial Challenge Fund: This matching fund would build on a program that Congressional appropriators have been financing the last two years with \$10 million in fiscal year 2015 and \$15 million in fiscal 2016. Partners have put up twice that amount, according to the National Parks Conservation Association.

The bill would make available for the fund any collections over \$10 million from senior citizen fees. The Western Slope No-Fee Coalition estimates annual collections between \$20 million and \$25 million. So the program couldn't expand much over the current appropriated program.

The money would be used for projects selected by the Park Service, but it recommends that NPS "prioritize deferred maintenance projects, physical improvements to visitor services facilities and trail maintenance."

In its fiscal 2017 budget request the Obama administration recommended an appropriation of \$100 million per year for the program.

The House approved a fiscal 2017 Interior appropriations bill (HR 5538) July 16 that would put up a \$30 million appropriation for the Challenge Fund and the Senate Appropriations Committee June 14 approved an Interior bill (S 3068) that would appropriate \$20 million.

National Park Foundation Endowment: This endowment would begin with senior citizen fee money of \$10 million per year (presumably money not used by the Challenge Fund) and donations to the National Park Foundation.

The money could be used for "projects and activities approved by the Secretary that further the mission and purposes of the Service."

Senior citizen passes: This is not politically popular. When it came to the House floor ranking House subcommittee on Public Lands Democrat Niki Tsongas (R-Mass.) said, "New revenue generated by fees, especially at the expense of our Nation's seniors, will not solve the issue of deferred maintenance."

The fee hike was criticized by the Western Slope No Fee Coalition. It advised its members when HR 4680 came to the House floor, "While there have been a multitude of bills introduced (and programs authorized) aimed at giving new groups free or reduced-cost access to the public lands - 4th Graders, military families, those with disabilities, veterans, volunteers - it is difficult to understand why Congress has taken this opportunity to reduce a long-standing benefit to seniors. It is being done in the guise of celebrating the centennial of the National Park Service."

Appropriators approve interim bill to give Trump a shot

After the usual delays, Congress December 9 approved a short-term fiscal year 2017 spending bill (HR 2028) that will keep the government in money through April

28. The measure would roughly maintain fiscal 2016 spending under roughly the same terms and conditions.

The House approved the bill December 8 and the Senate followed suit December 9, only after overcoming a Democratic filibuster aimed at pension assistance to coal miners. President Obama immediately signed the bill December 10 as PL 114-254.

The continuing resolution is relatively spare of policy provisions. For instance, it does not include extra emergency wildfire money. Nor does it address any substantive park and rec issues. All that presumably can wait for a full-year appropriations bill next spring.

Naturally, the Republican majority would prefer to leave the policy options in fiscal 2017 spending bills to incoming President Trump.

What happens when Congress reconvenes in January is up in the air. As a first order of business the Republican majority may attempt to blow up an overall spending agreement and start over with lower spending caps for appropriations bills.

A current overall spending agreement between the Obama White House and Congress (PL 114-74 of Nov. 2, 2015) gave appropriators extra money to work with for all domestic and military programs in fiscal years 2016 and 2017. For fiscal 2017 the total is \$1.070 trillion. Senate Appropriations Committee Chairman Thad Cochran (R-Miss.) said the continuing resolution was based on the \$1.070 trillion expenditure rate.

This past fall House Republicans from the House Freedom Caucus recommended trimming \$30 billion off the top of the \$1.070 trillion.

For the record the House approved its version of a fiscal 2017 Interior and Related Agencies spending bill (HR 5538) July 14 and the Senate Appropriations Committee approved its bill (S 3068). The two bills also include both wildfire and payments-in-lieu of taxes spending, which eat up much of annual appropriations.

If by some miracle Congress actually prepares an Interior appropriations bill next year based on HR 5538 and S 3068, here are some of the recommended House and Senate committee appropriations:

For the LAND AND WATER CONSERVATION FUND the House bill recommends an appropriation of \$145.8 million, or \$88.4 million short of a fiscal 2016 appropriation of \$234.2 million. The House also would reduce the state side of LWCF by \$30 million, cutting it from \$110 million to \$80 million.

The Senate committee bill recommends \$40 million more for federal land acquisition than the House, approving \$184.4 million. The senators would also allocate \$10 million for state grants, a total of \$110 million.

CENTENNIAL CHALLENGE GRANTS: The House approved \$30 million, or \$5 million

less than the \$35 million the administration requested. The Senate committee approved \$20 million.

PARK SERVICE OPERATIONS: The House approved \$2.435 billion, or \$39 million more than a fiscal 2016 appropriation of \$2.396 billion. The Senate committee would appropriate \$2.406 billion.

STATE WILDLIFE CONSERVATION GRANTS: The House approved \$62.6 million, or \$2 million more than the fiscal 2016 appropriation of \$60.6 million. The Senate committee would appropriate \$62.6 million, the same as the House.

FOREST SERVICE RECREATION: The House approved \$263.9 million, just over the fiscal 2016 appropriation of \$261.7 million. The Senate committee would appropriate \$264.6 million.

BLM RECREATION MANAGEMENT: The House would appropriate \$69.5 million, compared to a fiscal 2016 appropriation of the same, \$69.5 million. The Senate committee would appropriate \$68.7 million.

RIDERS: Conservationists object to numerous amendments/riders in the House and Senate committee bills.

They have singled out for special condemnation a House amendment that would forbid the designation of any national monument in specific counties in eight states – Arizona, California, Colorado, Nevada, New Mexico, Oregon, Utah and Maine. Critics of the amendment say the ban would apply to 160 million acres.

Other House amendments would bar the designation of any new ocean national monuments; block limits on motorboat use in Havasu Wildlife Refuge; block an Obama administration ocean policy; prevent designation of a national heritage area in southeastern Colorado; and bar the designation of any new ocean national monuments.

Finally, both the House and the Senate committee would forbid EPA from implementing a May 27, 2015, rule that would expand the definition of a wetland subject to a Section 404 permit under the Clean Water Act. EPA and the Corps of Engineers said that the rule would go beyond the existing regulation that only requires a permit for navigable waters. The rule would also require permits for seasonal streams, wetlands near navigable waters and other waters.

Federal Parks & Recreation is published by Resources Publishing Co., P.O. BOX 41320, Arlington, VA 22204. EIN 52-1363538. Phone (703) 553-0552. FAX (703) 553-0558. E-mail james.b.coffin@verizon.net. Website: <http://www.plnfpr.com>.
